

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Timothy J. Yoo (SBN 155531) Juliet Y. Oh (SBN 211414) Levene, Neale, Bender, Yoo & Brill L.L.P. 10250 Constellation Blvd., Suite 1700 Los Angeles, California 90067 Telephone: (310) 229-1234 Facsimile: (310) 229-1244 Email: TJY@LNBYB.com, JYO@LNBYB.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

<p>In re: ELKE MAGDALENA LESSO,</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:11-bk-32945-SK CHAPTER: 7</p> <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>
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<p>Sale Date: 01/29/2014</p>	<p>Time: 9:00 am</p>
<p>Location: 255 E. Temple Street, Courtroom 1575, Los Angeles, CA 90012</p>	

Type of Sale: Public Private **Last date to file objections:** 01/15/2014

Description of property to be sold:
 Real property (single family residence) located at 4911 Del Monte Road, La Canada Flintridge, California 91011

Terms and conditions of sale: Property to be sold "as-is" without any representations or warranties of any kind. Property to be sold subject to overbids, in accordance with overbid procedure described on page 4 of the attached notice.

Proposed sale price: \$ 780,000.00

Overbid procedure (if any):

Please see description of overbid procedure on page 4 of the attached notice.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

DATE: January 29, 2014
TIME: 9:00 a.m.
PLACE: Courtroom "1575"
255 East Temple Street
Los Angeles, California 90012

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Jason M. Rund, Chapter 7 Trustee
840 Apollo Street, Suite 351
El Segundo, CA 90245
Telephone: (310) 640-1200
Facsimile: (310) 640-0200
Email: trustee@srlawyers.com

Date: 01/08/2014

1 TIMOTHY J. YOO (SBN 155531)
JULIET Y. OH (SBN 211414)
2 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
3 10250 Constellation Boulevard, Ste. 1700
Los Angeles, CA 90067
4 Telephone: (310) 229-1234
Facsimile: (310) 229-1244
5 Email: tjy@lnbyb.com, jyo@lnbyb.com

6 Attorneys for Jason M. Rund, Chapter 7 Trustee

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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**
11

12 In re

13 ELKE MAGDALENA LESSO,

14 Debtor.

Case No. 2:11-bk-32945-SK

Chapter 7

**NOTICE OF CHAPTER 7 TRUSTEE'S
MOTION FOR ORDER: (1)
AUTHORIZING SALE OF ESTATE'S
RIGHT, TITLE AND INTEREST IN
REAL PROPERTY FREE AND CLEAR
OF LIENS OF STANLEY HEYN,
FUCHS & ASSOCIATES, INC. AND
FRANCHIES TAX BOARD; (2)
APPROVING OVERBID
PROCEDURE; (3) APPROVING
PAYMENT OF COMMISSIONS; AND
(4) FINDING PURCHASER IS A GOOD
FAITH PURCHASER**

[4911 Del Monte Road, La Canada
Flintridge, California]

Hearing:

Date: January 29, 2014

Time: 9:00 a.m.

Place: Courtroom "1575"
255 E. Temple Street
Los Angeles, California

1 **TO ALL INTERESTED PARTIES:**

2 **PLEASE TAKE NOTICE** that a hearing will be held on January 29, 2014 at 9:00 a.m.,
3 in Courtroom “1575” located at 255 East Temple Street, Los Angeles, California 90012, before
4 the Honorable Sandra R. Klein, United States Bankruptcy Judge, for the Court to consider the
5 motion (the “Motion”) filed by Jason M. Rund, the duly appointed Chapter 7 Trustee (the
6 “Trustee”) for the bankruptcy estate of Elke Magdalena Lesso (the “Debtor”), for the entry of an
7 order, pursuant to 11 U.S.C. §§ 105(a), 363(b), (f) and (m), (1) authorizing the Trustee to sell
8 the estate’s right, title and interest in that certain real property located at 4911 Del Monte Road,
9 La Canada Flintridge, California (the “Property”), free and clear of the liens of Stanley Heyn,
10 Fuchs & Associates, Inc. and the California Franchise Tax Board; (2) approving the overbid
11 procedure set forth in the Motion; (3) approving the payment of the real estate broker’s
12 commissions; and (4) finding that the purchaser is a good faith purchaser.

13 **PLEASE TAKE FURTHER NOTICE** as follows:

14 **(A) Date, Time, and Place of Hearing on the Proposed Sale:** January 29, 2014,
15 2013 at 9:00 a.m. in Courtroom 1575 of the United States Bankruptcy Court, located at 255 East
16 Temple Street, Los Angeles, California 90012.

17 **(B) Name and Address of Proposed Purchaser:** Tamy Ly and Edwards Martelli
18 (together, the “Purchaser”), c/o Meridian Brokerage, Attn: Michael Lam, 411 East Huntington
19 Drive, #107, Arcadia, California 91006.

20 **(C) Description of Property to Be Sold:** 4911 Del Monte Road, La Canada
21 Flintridge, California 91011.

22 **(D) Terms and Conditions of the Proposed Sale:**

- 23 • Purchase Price: \$780,000 (the “Purchase Price”);
24 • Condition of Property: Property purchased “as-is” without any
25 representations or warranties of any kind; and
26 • Broker’s Commissions: Six percent (6%).

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1 (E) **Liens:** The proposed sale of the Property is subject to liens. The preliminary
2 title report obtained from Fidelity National Title Company (the “Title Report”), a true and
3 correct copy of which is attached as Exhibit “5” to the Declaration of Jason Rund annexed to
4 the Motion (the “Rund Declaration”) indicates the following liens have been recorded against
5 the Property:

Item No. on Title Report	Lienholder	Nature and Amount of Lien
8	Deutsche Bank National Trust Company, as Trustee of the Residential Asset Securitization Trust 2005-A8CB, Mortgage Pass-Through Certificates, Series 2005-H under the Pooling and Servicing Agreement dated June 1, 2005 (“ <u>Deutsche Bank</u> ”)	Deed of Trust recorded in favor of Mortgage Electronic Registration Systems, Inc. on 5/4/05; Assignment of Deed of Trust to Deutsche Bank recorded on 4/22/11. The Trustee is informed that an obligation of approximately \$405,000 is secured by this deed.
9	IndyMac Bank, F.S.B. (“ <u>IndyMac</u> ”)	Deed of Trust recorded in favor of IndyMac on 5/4/05. The Trustee is informed that an obligation of approximately \$100,000 is secured by this deed.
10	Stanley Heyn (“ <u>Heyn</u> ”)	Deed of trust and assignment of rents in the sum of \$47,000 recorded in favor of Heyn on 7/22/10. As discussed in the Motion, the Trustee believes that this lien is invalid and avoidable as a fraudulent conveyance.
11	Brunhilde Weber (“ <u>Weber</u> ”)	Deed of trust and assignment of rents in the sum of \$210,000 recorded in favor of Weber on 7/22/10. As discussed in the Motion, this lien has been avoided (with the value thereof recovered and preserved for the benefit of the estate) pursuant to a default judgment entered by the Court on 11/7/13 (<i>see</i> Exhibit “2” to the Rund Declaration annexed to the Motion).

13	Fuchs & Associates, Inc. (" <u>Fuchs</u> ")	Abstract of Judgment recovered in favor of Fuchs on 10/8/09. As discussed in the Motion, the Abstract of Judgment recorded by Fuchs is based upon a claim for attorneys' fees and costs which was disallowed in its entirety pursuant to a final judgment entered by the Superior Court of the State of California for the County of Los Angeles.
19	State of California Franchise Tax Board (" <u>FTB</u> ")	State tax lien recorded in favor of FTB on 1/10/13. As discussed in the Motion, this state tax lien was recorded after the Petition Date and is null and void as a matter of law.

(F) **Overbid Procedures:** (1) Any person interested in submitting an overbid on the Property must attend the hearing on the Motion or be represented by an individual with authority to participate in the overbid process at the hearing on the Motion; (2) an overbid will be defined as an initial overbid of \$1,000 above the Purchase Price, with each additional bid in \$1,000 increments; (3) all overbidders (except for the Purchaser) must deliver a deposit to the Trustee's counsel by way of cashier's check made payable to "Jason M. Rund, Chapter 7 Trustee," in the amount of \$78,100 (the "Deposit") at least 7 calendar days prior to the hearing on the Motion; (4) overbidders must purchase the Property on the same terms and conditions as the Purchaser; (5) the Deposit of the successful overbidder shall be forfeited if such party is thereafter unable to complete the purchase of the Property within 15 calendar days after the entry of an order granting this Motion and approving the sale of the Property; and (6) in the event the successful overbidder cannot timely complete the purchase of the Property, the Trustee shall be authorized to proceed with the sale to the next highest overbidder.

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1 **(G) Consideration:** The Trustee estimates that the proposed sale of the Property
2 will generate net proceeds, as follows:

3	Proposed Sales Price:	\$780,000
4	Real Property Taxes (est.):	(\$3,500)
5	Deutsch Bank Lien:	(\$405,000)
6	IndyMac Lien:	(\$100,000)
7	Heyn Lien, Fuchs Lien, FTB Lien	(\$0) ¹
8	Closing Costs (estimated at 9 8% including 6% broker 10 commissions):	(\$62,400)
11	Net Proceeds (est.):	<u>\$209,100</u>

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13 The net proceeds of the sale of the Property shall be held by the Trustee, with the lien asserted
14 by Heyn to attach to the net proceeds, to the same extent, validity and priority as the lien
15 asserted by Heyn against the Property. However, in the event the Trustee is successful in
16 obtaining an order disallowing Heyn's claim and lien and/or judgment avoiding Heyn's lien, the
17 estate (by virtue of the avoidance, recovery and preservation of the lien recorded by Weber
18 against the Property) shall be entitled to the net proceeds of the sale of the Property, which shall
19 be distributed by the Trustee, subject to the approval of the Court, in the order of priority
20 dictated by the Bankruptcy Code.

21 **(H) Commissions:** The Trustee will request that real estate broker's commissions
22 totaling six percent (6%) of the gross Purchase Price be allowed and paid directly from escrow,
23 as follows: 3% to Coldwell Banker (the Trustee's broker), 3% to Meridian Brokerage (the
24 Purchaser's broker).

25 **(I) Tax Consequences From Sale:** The Trustee has been advised by his accountant
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27 ¹ By the Motion, the Trustee is seeking to sell the Property free and clear of the invalid and/or disputed liens
28 of Stanley Heyn, Fuchs and the FTB.

1 that there will be no (or minimal) tax consequences resulting from the proposed sale of the
2 Property.

3 **(J) Deadline for Objections:** Pursuant to Local Bankruptcy Rule 9013-1(f), any
4 interested party that wishes to oppose the relief requested in the Motion must, not later than 14
5 days prior to the scheduled hearing date, file with the Clerk of the Bankruptcy Court located at
6 255 E. Temple Street, Los Angeles, California, and serve upon the Office of the United States
7 Trustee and the Trustee's counsel whose address is set forth on the upper left corner of the first
8 page of this notice, "[a] complete written statement of all reasons in opposition thereto ...,
9 declarations and copies of all photographs and documentary evidence on which the responding
10 party intends to rely and any responding memorandum of points and authorities."

11 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule 9013-
12 1(h), the failure to timely file and serve a response to the Motion may be deemed by the Court
13 to constitute consent to the granting of the relief requested in the Motion.

14 **PLEASE TAKE FURTHER NOTICE** that complete copies of the Motion and the
15 documents submitted in support thereof will be provided upon written request to Juliet Y. Oh,
16 Esq. of Levene, Neale, Bender, Yoo & Brill L.L.P., 10250 Constellation Blvd., Suite 1700, Los
17 Angeles, California 90067, Tel: (310) 229-1234, Email: JYO@LNBYB.com.

18 Dated: January 8, 2014

JASON M. RUND, CHAPTER 11 TRUSTEE

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21 By: _____

TIMOTHY J. YOO
JULIET Y. OH
LEVENE, NEALE, BENDER, YOO
& BRILL L.L.P.

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24 Attorneys for Jason M. Rund,
Chapter 7 Trustee
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **January 8, 2014**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Simon Aron saron@wrslawyers.com
- Richard A Avetisyan richard@avetisyanlaw.com
- John R Fuchs jrfuchs@earthlink.net
- Gail Gilfillan ggilfil@hotmail.com
- Barry S Glaser bglaser@swesq.com
- Steven N Kurtz nlessard@laklawyers.com, rfeldon@laklawyers.com; lkaplan@laklawyers.com; kschwarz@laklawyers.com
- David B Lally davidlallylaw@gmail.com
- Dare Law dare.law@usdoj.gov
- Anne C Manalili acmecf@laklawyers.com
- Ali R Nader ali@naderlawfirm.com, chris@naderlawfirm.com; amir@naderlawfirm.com; elvira@naderlawfirm.com
- Juliet Y Oh jyo@lnbrb.com, jyo@lnbrb.com
- Jason M Rund (TR) trustee@srlawyers.com, jrund@ecf.epiqsystems.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Marc Weitz marcweitz@weitzlegal.com
- Timothy J Yoo tjy@lnbyb.com

2. SERVED BY UNITED STATES MAIL: On **January 8, 2014**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

None.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **January 8, 2014**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served via Email per Court Order:

Piotr Andrzejewski: piotrandrzejewski@ymail.com

1 **Served via Attorney Service**
Hon. Sandra Klein
2 United States Bankruptcy Court
Edward R. Roybal Federal Building
3 255 E. Temple Street, Ctrm 1575
Los Angeles, CA 90012

4 I declare under penalty of perjury under the laws of the United States of America that the foregoing is
5 true and correct.

6	January 8, 2014	Stephanie Reichert	<i>/s/ Stephanie Reichert</i>
	<i>Date</i>	<i>Type Name</i>	<i>Signature</i>

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